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THE LOYOLA BRIEF

LOYOLA SCHOOL OF LAW - LOS ANGELES

MARCH, 1970

VOL. 2, NO. 3

Justice Douglas Addresses Loyola Students



Much work in the years ahead in eliminating the bias against the poor and ignorant from the law was foreseen by Justice William O. Douglas, who spoke to students and friends of the Loyola University Law School on Wednesday, February 11. Justice Douglas' visit to Loyola was under the auspices of The St. Thomas More Law Honor Society and was sponsored by some fifteen law firms and attorneys. Douglas is circuit justice for the Ninth Circuit. He was seated on the Court 31 years ago.

According to Douglas, the bias against the poor in the law has been put there by lobbyists' pressure on legislators and can be removed by similar pressure, as the issue comes into focus to attorneys, bar associations, and study groups. He cited the problem as a great source of discontent which must be removed.

At the same time, Douglas pointed out that the equal protection clause was not designed to iron out all inequality. The poor can't have what the rich have, he said, and there is nothing in the Constitution about the poor and poverty. The equal protection clause was not in-

tended to save paupers from their historic fate; it is to iron out the rank and invidious discrimination.

He pointed to equal protection for the poor in criminal proceedings as one area where action has begun.

According to Douglas discrimination on the basis of wealth is just one of many ways that man discriminates — a tendency which he attributed to man's predatory instinct and capacity for evil. He noted that discrimination is practiced the world over and on many bases — religious, ideological, racial — and that is why the attempt to eliminate discrimination in this country is so great an experiment and will have global repercussions. Douglas singled out Saladin who, upon defeating the Christians, did not retaliate for the massacre of Arabs, for praise and remarked that he always wreathes his tomb in honor when he visits there.

As to the Supreme Court itself, Douglas stated that it always has been and always will be controversial. He noted that it does not generate its own business, but as Holmes

once described it, is like an oyster clinging to a rock which feeds on what the tide brings in.

In a question and answer session which followed his talk, Douglas avoided discussing the problem of bussing, on the ground that the issue might come before the Court, and the problem of drugs on the ground that he didn't know anything about it. He pointed to Reynolds vs. Sims as the most important case the court had decided during his tenure.

Asked whether change can be made fast enough, Douglas stated that evolution is the modern way of revolution. Our system is good because it provides for change. The way is to decide what to do and use the political process to do it, rather than destroy what we have.

A final question dealt with the criteria for selecting a Justice of the Supreme Court. First, Douglas opined, would be to pick someone you think would vote the way you would vote. He noted that Presidents are often misled on this score. But choosing is the president's prerogative. "Sometimes they do well," he said, "and sometimes better than they imagined."

To the Editor:

LETTERS

While legal fictions betray reality, I sit here in the last reservoir of hope to attempt to do my part to eradicate the hate, ignorance, racism, and insensateness that has polarized not only our microcosmic world at Loyola, but America at large.

Now that legal fictions have become a frightening reality I can succinctly foresee a pernicious future for our society as long as the only tool we have left — the legal institutions — remain inactive, unaware, and insouciant to our needs as a civilized society. As I draw an analogy between the historical oppression of blacks and the ever growing oppression of middle class whites, I am firmly convinced after the actions taken at our last SBA meeting that unless we, the lawyers, judges, and politicians of tomorrow take an adamant and intrepid stand in exercising our Constitutional rights, *all* of America, not just "black folks," will be engulfed in the slavery that black people have known for the past four hundred years.

In regard to the charisma that has surrounded our SBA meetings, perhaps if more students besides Johnne Tennell and Mason Rose were interested in our SBA, in our school, and in our society this incident which has given all seven of us *criminal records for life* could have been avoided. The issues involved now in America, Loyola, and our respective communities are above the left and the right. The very concepts of freedom, justice, and equality are at stake. At this point, speaking from a black point of view, freedom, justice, and equality are still legal fictions to black people, and I think that many white folks see that these philosophical concepts are legal fictions to them also, especially when they try to make them part of reality.

At this late date in the game, one can be either part of America's problem or part of the solution. Which part are you! The Black American Law Students Association wanted to be part of the solution, and that

is why we have taken an active involvement in the school, our community, and America so that we may do what we can to save ourselves, our people, and America.

I would like to close with this message — that there can never be any peace and tranquility anywhere as long as there is no freedom, justice, and equality.

—JOHNNE TENNELL

EDITORIAL

Mason Rose is a fascist pig they say. He is also Mason Rose V, a close relation of George III, who is not dead they say. They will not go quietly like good Germans or even good niggers or good Jews or good Catholics they say. Who says? Kalish, Balsa, CLSA, and their adherents. What does it mean? It means that their will is not to obey the law, at whatever level it is encountered — the SBA, the City of Los Angeles, or the Federal Court.

Why not? What is the wellspring of their discontent? Watching the performers we've had the past few weeks, it is impossible to believe that it is either racial, religious, or economic frustration. Each one has his personal demons that must be propitiated. Chicago was an orgy of self-pity over self-inflicted pain. The most insistent sound in the Moot Court Room has been the reverberation of hollow charges falling on deaf ears. Hollow charges which create the opportunity for self-dramatization, which mask a simple desire to tell the Church with its priests and nuns to shove it, the chance for blacks to tell the white world where to get off. All personal peevs to be aired in a proper social and political context, of course.

That context is a game college kids play. It is adapted from the streets, only Lennie Bernstein didn't write the music. You set aside a piece of ground or turf, in this case a campus, and suspend the rules. It's chicken to invoke the police or any authority. Whoever is strongest, in voice or muscle or pure bravado imposes his will on the rest. In other times and places this has been called the rule of the jungle, and it is precisely what every student at Loyola

should be dedicated to disavow, abhor, and supplant.

Good law students ought to make very poor fanatics, because Law is a thing we love.

The police are also the servants of the law. Two years ago, when a woman was or thought she was being molested, the police came into the building and no one objected. Last week a car outside was vandalized and no cry was raised to bar the police. Which laws will the police be called to enforce and which will be freely broken? Shall we have a student referendum on the California Codes? —JOANNE EGAN

EDITORIAL

Student government at Loyola is going through a most serious crisis. The atmosphere of academically induced quietude and indifference to the problems of the real world is now broken. The fundamental concept of student self-government is on trial before its students, and with the television and newspaper coverage of our recent events, before the people of Los Angeles.

The question is whether student government, representing a racially mixed student body, can operate in harmony and efficiency. It is argued by some that police officers have no place on our campus. They argue that arresting seven students is too great a price to pay for the preservation of student self-government.

There is no doubt that arrest is a drastic step. It is very distressing that future attorneys who will be asked to bring reason and justice into a court room cannot measure up enough reason to conduct the affairs in their own classrooms.

How much prestige and respect will our Loyola law degrees command in the eyes of our future employers? If a Loyola student cannot govern himself, how can he be of any use to his clients?

Too long have students argued what is best for them. Too long have they argued what is best for their "people". Just for once *The Brief* pleads that students act with more reason than passion and ask what is best for Loyola.

RICHARD ADLER

SBA PRESIDENT MASON ROSE DISCUSSES STUDENT PROBLEMS

(Editor's Note: The following article was written for *The Brief* early in February, but remains timely in view of events since then.)

There are many opinions about the relevance of student government. However, the fact remains that we have a student government which you have elected and have entrusted with approximately \$10,000 of your funds.

As president of the SBA, I feel I have a duty to represent and protect the interests of all our students, and not just the interests of particular minority groups. It is my opinion that from the beginning of this school year, only the interests of the minority have been represented.

During the first weeks of school, the Black Students and the Chicano Students came forward and asked for a voting seat on the SBA. Our SBA Constitution clearly provided that such membership could only be had by a constitutional amendment. However, the large majority of representatives voted that the constitution could be "interpreted" to allow them a voting seat by a simple vote among ourselves. It is my opinion that more than half of those voting had never read the constitution that they were claiming to interpret. But the majority ruled and we attempted to move on.

We have spent the rest of our time to date dealing with these two minority groups. Since they received their right to vote, we have had continual requests for money. Some of these requests have been granted.

Most recently, the Blacks were asking for \$2,000 of your money to publish a landlord-tenant pamphlet to distribute in poverty neighborhoods. The Black representative, through disruptive tactics, prevented any other business from transpiring through the SBA until their demands were heard. I turned to the administration for assistance in

maintaining order so we could proceed with our meeting without interruption, but I was told that this was a "student problem" in which the administration would not intervene.

After all this disturbance, and to my amazement, the majority voted to give the Blacks' demand priority over all other business. So now it appears that whoever shouts the loudest and longest will get the floor.

Somehow I get the feeling that the majority of you are not being represented at our meetings. If you are concerned as I am, ask your representative if he has bothered to attend and represent you, and if so, how he voted.

In an attempt to obtain more representation, all further votes will be by roll call, and the results, along with representative attendance will be published.

Our minority groups have problems which deserve close attention, but the majority of the students should also have their interests represented.

Resume of Recent SBA Happenings

Petitions, resolutions, referendums, newsletters, and other papers fluttered through the halls of Loyola in the wake of a Student Bar Meeting on March 1 which saw seven students arrested for disrupting the meeting. Three of the four SBA meetings held prior to March 1 were adjourned prematurely when a representative of the Black American Law Students Association refused to yield the floor when ruled out of order. The only meeting conducted was one in which the SBA agreed to consider a request for funds by BALSA. The request was defeated.

Earlier in the school year, there were contests over the granting of a voting seat on the SBA Board to BALSA and the Chicano Law Students Association, which was a constitutional issue, and over the granting of money to these organizations from the student funds. Throughout, the position of the Dean was that the controversy was a student matter to be handled by students.

All of the students arrested were members of either BALSA or CLSA. Following the arrests, the SBA Board deplored by a vote of 17 to 1 the necessity for arrests, but supported the action, although encouraging Rose to drop charges if he is released from all personal liability and those arrested and their organizations agree to abide by rules, by-laws, and constitution of the SBA as interpreted by its officers. The Board also disapproved of the administration's failure to act.

A press conference was called by BALSA on March 2, which was also attended by black law students from USC and UCLA. Five demands were presented: that the charges against the students be dismissed, immediate suspension of SBA activities and the imposition of a constructive trust on SBA funds; resignation of Mason Rose and the SBA board; a firm promise that no police be allowed on campus; and the refusal of a degree to Rose.



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SPEAKERS FORUM

ACLU Staff Counsel Sperber Describes Action Against LAPD

On January 28, 1970, Laurence Sperber, staff counsel of the American Civil Liberties Union spoke on "Limiting Police Provocation" before some 150 students. Aside from his duties with the A.C.L.U., Sperber is also licensed to practice law in California, New York, and before the Supreme Court of the United States.

Sperber first addressed himself to the failure of the DA's office to prosecute substantiated incidents of police harassment and brutality, but the major emphasis of the speech centered upon the much-publicized effort by the ACLU to halt any persecution of minority groups by means of a court injunction. Their theory is that if the injunction is violated, contempt charges might then flow against the LAPD, and the trial would be by the court without a jury.

Central to the ACLU's cause is the employment of the class action. As described in the speech, the essence of this class action is that all those parties affected in some way by the suit (potential plaintiffs) who wish to exempt themselves from the action must affirmatively do so. Otherwise, by principle of res judicata they would be estopped from bringing the same or similar actions at a later date.

A major difficulty encountered in such an action is that somewhat extensive steps must be taken to inform potential plaintiffs. As a result, the court ordered placement of an advertisement in the Los Angeles Times requesting all parties who do not wish to be plaintiffs in the Ennis vs. Lapo case to so notify. Unfortunately, as Sperber indicated, the advertisement was written "in legalese" — and has been misunderstood by the public." Instead of opting out, most people have ex-

pressed a desire to join as plaintiffs, which was just not the point of the advertisement. The \$7500.00 cost of each ad was to be borne primarily by the ACLU, which Sperber humorously suggested would be "quite fine as we are already deeply in debt".

Of the many questions asked, the most cogent revolved about what law students could do now to advance the cause of civil liberties. The ACLU counsel indicated that what is most needed is for minority students to go into ghetto areas and participate in neighborhood legal aid, OEO and ACLU programs.

—R. GOLD and D. BEAVER

Politicians Invited To Visit Loyola

Several public figures are scheduled to address Loyola students as part of the Speakers Program. On the 25th of February, Dr. Julian Nava discussed his candidacy for State Superintendent of Public Instruction. On April 1, Congressman George Brown will discuss the needs of the United States and his candidacy for the U.S. Senate. Justice Mosk will address the student body on April 9, 1970.

If any student or group of students desires a particular speaker and has access to such person, please contact members of the Speaker's Committee. Members of the committee are Alan Oken, Ron Gold, Elizabeth Williams, Lyle Mink, and Isaac Berneman.

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Kalish Defends Chicago Seven

Why did seven people of at least average intelligence and knowledge behave the way the defendants in Chicago behaved? Why did their attorneys, certainly knowledgeable, counsel and abet them in this conduct? According to Donald Kalish, who described himself as their friend, they simply did not want to go quietly to jail on phony charges, but wanted to go out with a bang, not to be quietly locked up until they get an appeal.

Kalish, who is co-chairman of M.O.B. and a professor of philosophy at UCLA, made these remarks as a recent speaker at the Noon Forum at Loyola.

First Kalish discussed the demonstration at the park, explaining that Chicago has a curfew barring people from the park after 11 p.m. The law, he said, is obviously designed to protect individuals or couples who might be assaulted or robbed late at night. The Yippies asked to have the curfew set aside so a few thousand people could sleep in the park. The police refused their request, although these people would not need the protection intended by the curfew law. Thereupon, they decided that the parks and streets belonged to the people so they would stay there anyway.

The real conspiracy, said Kalish, was among the police who conspired to make a big show of muscle in order to provoke an overreaction from the demonstrators. Besides, he said, if the people had just been left alone there would have been so much love making and pot smoking no one would have been able to demonstrate against anything the next day.

As to the trial itself, at which he testified on two days, Kalish said everyone will be offended by something someone did. He said he never saw two more dishonest men than the prosecutors, and that the judge would have been pathetic if he weren't so evil.

Bryan Explains

Elements of Jury Selection, the topic announced for Dr. William Bryan's talk at the Speaker's Forum, is a terribly prosaic description of what, as delineated by Dr. Bryan, is a highly intimate relationship — that of lawyer to jury.

From the trial lawyer's point of view, says Dr. Bryan, facts exist only in the minds of the jury; all verdicts come from the minds of the jury. Therefore, to win, a lawyer must from the earliest possible moment put into those minds what he wants to be found as fact and verdict.

Bryan's expertise in this area is based on degrees in engineering, medicine, and law. Hypnosis is his medical specialty; jury picking his legal specialty. He has worked in the latter capacity with well-known trial lawyers — Belli and Bailey, for example.

He pointed out that juries are not chosen, but that it is a process of

KALISH (cont'd)

Admitting that the defense showed bad manners and poor taste and broke a few rules, Kalish said it was the court who gave the first offense and broke the rules first by ruling that Seale could not represent himself and refusing to wait for the attorney he wanted. Then, like the war in Vietnam, the two sides began escalating the conflict, Kalish said. Remarking on the defendants' gestures and communications with the jurors, Kalish said the courts will have to change their style, just like people do.

In closing his remarks, Kalish said the beautiful younger generation is offended by the outcome in Chicago and is not going to continue to behave "like good Germans".

In the question period which followed, Kalish was asked how he justified the destruction in Berkeley by the beautiful young people who protested the Chicago decision. He answered that there was no excuse, but they were just so angry they couldn't control themselves.

Jury Selection

elimination. You start with a panel, the challenges are gone through, and what's left is the jury, he said. He recommends a thorough investigation of every potential juror prior to trial. On voir dire, he noted the necessity of being able to interpret all of a person's communications — body movements, facial expressions, as well as speech. Superior knowledge of this kind permits more effective use of the lawyer's strategic weapon, the peremptory challenge, so that the result is a jury more likely to favor you and your client than your opponent.

He noted that rules governing the selection and questioning of jurors vary widely from one jurisdiction to another. His own view is that the judge should be dispensed with at this stage, since they "cause all the trouble."

In communicating with the jurors, one point Bryan stressed was that lawyers are prone to use negative suggestions, a tendency he attributed to prolonged study of cases that didn't work out and had to be appealed. He also recommended that lawyers study hypnosis, which he described as the power of persuasion.

The session with Bryan was well-attended and lively. He remained seated throughout, since he was still recovering from major surgery which was performed without anesthetic under self-hypnosis.

He is himself genuinely outrageous, particularly in the candor with which he delivers his opinions. To a question about the recent conspiracy trial in Chicago, Bryan said he thought the defendants and their attorneys were stupid. The object of a trial is to win, he said, and the cardinal rule for winning is, "Don't irritate the judge. He has a great deal of power."

Dr. Bryan has stated that through hypnosis he can help students raise their score on the Bar exam. For any nervous graduate who is interested, Dr. Bryan has an office at 8833 Sunset Blvd.

Speakers Program At High Schools

High school students are getting a new insight into the workings of the law through the efforts of law students involved in the High School Speakers Program sponsored by the LSD/ABA. Participants from Loyola began with a presentation at Manual Arts High School in Los Angeles on December 5.

In re Gault, the Supreme Court's most important pronouncement on rights of juveniles in recent years, was discussed in two classes, and received a "tremendous" reaction from the students, according to the participants. The program was videotaped and will be a part of a project in the social studies department to implement "more relevant" courses in high school.

One purpose of the program is to educate high school students about their legal rights. Other topics which have been selected for discussion are consumer fraud, search and seizure, and criminal proceedings.

Students from Southwestern, UCLA, and USC are joining in the program, in addition to those from Loyola. The program has also been expanded to include predominantly white schools which are reached at Loyola through the Senior Day program. Students who visit the main campus on Senior Day meet with Loyola Law students to find out about pre-law work.

Belvin K. Smith, Loyola, is serving as Chairman of the LSD/ABA High School Speakers Program in the L.A. area. Student members from Loyola include Frank Calaba, Lee Lucorco, Charles Richardson, and Alberto Sierra. Ted Eagans and Johnne Tennell gave the presentation at Manual Arts High.

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9th and 10th Circuits LSD/ABA Sponsor Las Vegas Conference

Representative Udall (D., Ariz.) will keynote a joint conference of the 9th and 10th Circuits of the Law Student Division of the American Bar Association, which is to be held this year on the weekend of March 20-22 in Las Vegas. Don Aimar, Loyola, and Brent Kunz, University of Wyoming, are serving as co-chairmen of the conference.

Over 30 law schools in the western states will be represented at this meeting, with a majority of the schools being in California. Nearly 100 law students are expected to participate, since each school is entitled to two delegates.

In addition to Rep. Udall, who will deliver his address at a luncheon

on March 21, the Chief Justice of the Nevada Supreme Court, Jon Collins, and the Attorney-General of Nevada, Harvey Dickerson, will address the group in informal workshops.

A major item of business will be the election of a new Circuit Governors for the coming year.

Also on the agenda is a meeting of the Student Bar presidents from each school, a type of meeting which proved very successful at the national conference last summer in Dallas.

Any students who are interested in joining LSD/ABA or participating in these activities should get in touch with Don Aimar.

S. F. Valley Lawyers Wives Award \$500 Scholarship To Martin M. Simone

Martin M. Simone was selected by the Lawyers Wives of San Fernando Valley as the Loyola Law School student to receive a \$500 Scholarship Award from their organization.

Simone has been a resident of San Fernando Valley for 18 years. He graduated from Alemany High School, magna cum laude. While in high school he was a member of the National Honor Society and a lifetime member of the California Scholarship Federation. His activities also included varsity football and track.

Simone completed his undergraduate work at Loyola University of Los Angeles, where he was a member of the Pre-Legal, Historical, and English Societies. He was on the Dean's list and was a varsity football letterman.

Simone is now a second year student at Loyola Law School. He resides in Granada Hills with his wife, the former Candetta Ray of North Hollywood, and their two children.

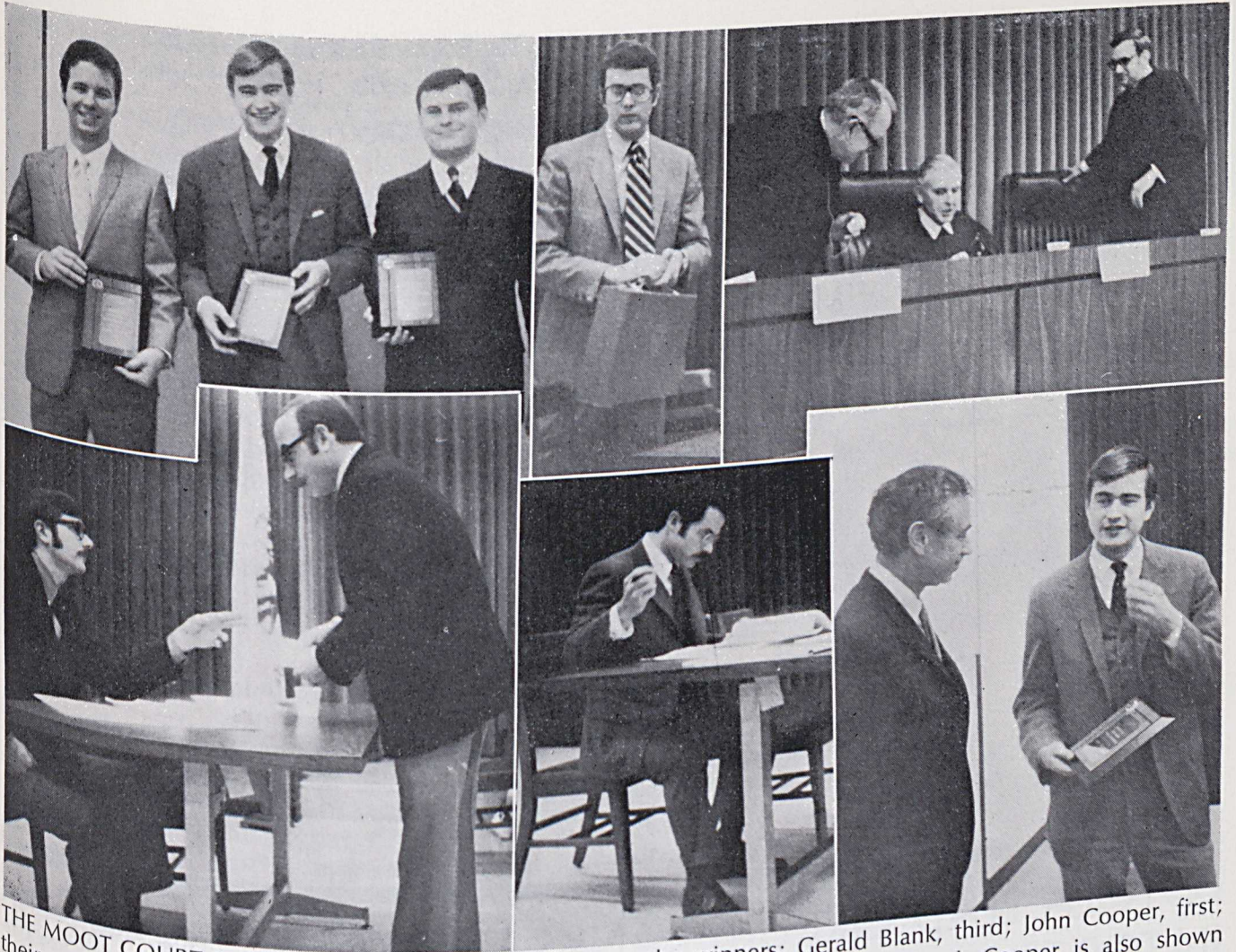
April Teach-In On Environment

Plans for a National Teach-In on the crisis of environment were announced recently in Washington, D.C. April is the tentative date. John Long, president of the LSD/ABA has been appointed coordinator.

Headed by Wisconsin Senator Gaylord Nelson and California Congressman Pete McCloskey, the Teach-In national offices are to be located in Washington. Long will operate from the capital office, contacting student groups across the United States.

Plans call for a day specifically set aside for community and campus groups to discuss common environmental problems. Special programs, including symposiums, convocations, panel discussions and outdoor rallies will be planned. Topics may vary from one community to another since each area may have differing local crises.

Students who desire more information on the Environmental Teach-In should contact Long, c/o Sen. Gaylord Nelson, Washington, D.C.



THE MOOT COURT SCENE—Eleven finalists presented their arguments to a panel of three judges in the Scott Moot Court Competition. Shown upper left are

the winners: Gerald Blank, third; John Cooper, first; and Dennis Dragan, second. Cooper is also shown bottom right with faculty adviser Walter Trinkaus.

JOHN COOPER TAKES FIRST PRIZE IN MOOT COURT

Culminating one month of oral presentations involving more than 270 participants, the Moot Court finals were held November 21, 1969. John Cooper took the first prize plaque, out of 11 finalists who competed, with Gerald Blank finishing second and Dennis Dragan third. The other finalists were: Michael T. Boland, Herbert B. Hays, Jr., William E. Hickman, Frank J. Karl, Larry L. Scissors, Richard Stambul, Philip Walsh, and Claude Zolkin.

This year's argument was an appeal by the defendant in a wrongful death action where the plaintiff was the father of a seven-year-old boy killed by a truck driven by defendant's employee. Arguments centered on the issues of negligence, proximate cause, and contributory negligence.

Vital to the success of the competition, the largest ever held at Loyola, were the services donated by members of the Los Angeles legal community in evaluating the contestants.

Participating as judges in the preliminary and final rounds from the Court of Appeals were Justices John J. Ford, Gerold C. Dunn, and James A. Cobey. Judges of the Superior Court who took part were George M. Dell, Lester E. Olson, Mario L. Clinco, Alfred Gitelson, John L. Cole, Leonard A. Diether, Stevens Fargo, Raymond Choate, Homer H. Bell, William P. Hogoboom, Roy J. Brown, Newell Barrett, John Stuart Frazer, Paul Egly, and Thomas Patton.

Judge Walter S. Binns of the

Municipal Court and attorneys Anthony Shafton and William Rylaarsdam also participated.

Faculty adviser for the Moot Court is Walter A. Trinkaus.

Steve Freeburg, who was in charge of the Moot Court competition, expressed gratitude to the Student Fellows and their assistants for providing early exposure to oral argument which he credited with giving participants a degree of self-assurance and enthusiasm which made the competition more enjoyable.

The winners in the Scott Moot Court competition make up Loyola's entry in the statewide moot court which will be held at UCLA. Loyola has a two-man entry in an international moot court consisting of Martin Barab and Norman Chernin.

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LOYOLA LEAD CIRCUIT, RANKS IN TOP TEN IN LSD/ABA MEMBERSHIP

238 members of the Loyola student body hold membership in the American Bar Association through the Law Student Division for the current school year. This total gives Loyola the largest membership of any law school in the 9th Circuit and puts the school in the ranks of the top ten in the country. Of the 238 members, 65 have joined various ABA sections.

Members of the LSD/ABA can participate in community legal matters by volunteering for one of the 9th Circuit committees. Programs under way and their chairmen are:

High School Speakers Program, Belvin Smith of Loyola, Chairman; Model Court Rule covering an internship program for third year law students, Tony Bennetti of Santa Clara, Chairman; State Bar Liaison Committee to establish relations between students and the State and local bar groups, Sue Tanzman of

Loyola; Willowbrook Community Volunteer Center for legal aid to residents, Stan Firestone of Southwestern; Circuit Newsletter, Sue Andelson of Loyola; and Circuit Conference, Don Aimar of Loyola.

Some developing areas of work where personnel are needed are Un-accredited Schools Committee, Minority Students Employment, Consumer Protection, Migratory Farm Labor Laws, and the Model Code for Students Rights, Responsibilities, and Conduct. Those interested in these areas should contact Circuit Governor Sue Tanzman of Loyola.

THE LOYOLA BRIEF

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